

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayner
Ken Nickolai
Marshall Johnson
Phyllis Reha
Thomas Pugh

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application to the Minnesota
Public Utilities Commission for
a Pipeline Routing Permit for a Crude Oil
Pipeline and Associated Aboveground Facilities

ISSUE DATE: February 16, 2006

DOCKET NO. PL-5/PPL-05-2003

ORDER ACCEPTING APPLICATION,
AUTHORIZING NAMING OF PUBLIC
ADVISOR, APPROVING BUDGET AND
GRANTING VARIANCE

PROCEDURAL HISTORY

On January 5, 2006, Minnesota Pipe Line Company (MPLC or the Company) filed a request for a pipeline routing permit pursuant to Minn. Stat. § 116I.015 and the Pipeline Route Selection procedures in Minn. Rules, Parts 4415.0045 to 4415.0100.

On January 24, 2006, Laura and John Reinhardt filed comments on the issue of landowner notification.

On January 26, 2006, the Minnesota Department of Commerce (the Department) filed comments.

The Commission met on February 5, 2006 to consider this matter.

FINDINGS AND CONCLUSIONS

I. MPLC's Application for a Route Permit

MPLC proposed construction of a new 24-inch diameter crude petroleum pipeline (the MinnCan pipeline) originating at the existing interconnection between the applicant's pipeline system and the Enbridge's (formerly Lakehead Pipeline's) crude oil pipeline system in Clearbrook, Minnesota.

The proposed route for the MinnCan project generally follows (parallels) and uses a portion of MPLC's existing 65 to 70 foot wide pipeline right-of-way southward from the Clearbrook Station for about 112 of the 119 miles in the counties of Clearwater, Hubbard, Wadena, Todd and Morrison. Near Cushing, Minnesota, in Morrison County, the Company's proposed route leaves

the existing multiple line crude oil pipeline right-of-way, which then requires a new route and new right-of-way approximately 50 feet in width, within a proposed route for another 176 miles generally west and south of the Twin Cities metropolitan area, in the counties of Morrison, Stearns, Meeker, Wright, McLeod, Carver, Sibley, Scott and Dakota.

In addition, two new pump stations are planned for the project. The originating station will be located inside the Company's Clearbrook Station in Clearwater County. The mid-point pump station is planned to be constructed between Milepost 140 and 146 in Morrison County.

The proposed 295 mile crude oil petroleum pipeline will have an outside diameter of 24-inches with a nominal wall thickness of 0.350 to 0.500 inches. The maximum allowable operating pressure will be 1,462 pounds per square inch (psi). The proposed pipeline will have a design capacity ranging from 60,000 to 165,000 barrels per day. The cost of constructing the MinnCan project is currently estimated to be about \$300 million. The expected in-service date is early 2008.

II. The Reinhardts' Comments

John and Laura Reinhardt filed the same comments simultaneously in this docket and in the certificate of need docket (PL-5/CN-06-02).¹ Their comments and recommendations are addressed in the Commission's ORDER GRANTING VARIANCE AND ACCEPTING APPLICATION AS SUBSTANTIALLY COMPLETE issued February 16, 2006 in the Certificate of Need docket (PL-5/CN-06-02).

III. The Department's Comments

A. Completeness of Application

The Department stated that it reviewed MPLC's route application for completeness, applying the requirements of the applicable rules, Minn. Rules, Parts 4415.0115 to 4415.0170. The Department concluded that the Company's application provided the required information, including information on the environmental impact of the project and a separate Environmental Assessment Supplement to the Pipeline Routing Permit Application.

Based on its review, the Department concluded that the Company's application is complete and that the Commission should accept the application.

¹ The Reinhardts' comments are more directly relevant to the Certificate of Need proceeding because they recommended that the Commission find the Company's application for a Certificate of Need incomplete until the Company gave landowner notification in conformance with the Commission's and the Environmental Quality Board's (EQB's) rules governing applications for high voltage transmission lines (HVTL).

The Department further stated that acceptance of the application would allow the Department and the Company to initiate the actions required by Minn. Rule, Parts 4415.0045 through 4415.0095, including distributing the application, publishing notice of information meeting in each county, providing opportunity to make other route proposals, analysis of alternative routes, and public hearings. The Department noted that the Company has assured the Department that it will comply with requests for additional information from the Commission and the Department.

B. Project Budget

The Department noted that Minn. Rules, Part 4415.0210 requires the Company to pay an application fee to cover actual costs necessarily and reasonably incurred in processing an application for a pipeline routing permit, permit compliance activities, administrative overhead and legal expenses.²

The Department reported that it had estimated a project budget (\$300,000) and reviewed it with the Company. The Department asked that the Commission, as required by Minn. Rules, Part 4415.0210, approve that budget. The Department stated that the budget amount (\$300,000) would be sufficient to cover all actual costs associated with the Commission's review of this project.

C. Public Advisor

The Department asked that the Commission authorize it to name a public advisor for the project as the Commission did recently in the Big Stone Routing Docket, ET-6131,ET-2, ET-6130, ET-10, ET-6444, E-017,ET-9/TR-05-1275.

D. Enhanced Public Participation Opportunities

The Department noted that the Commission has authority to establish citizen advisory committees to aid and advise the Commission in evaluating routes for pipelines.³ The Department stated that it believes that there should be many opportunities for general and individual public involvement in the routing and permitting process and that depending on project type there may be more effective ways to obtain public participation than through an advisory committee.

Noting the scale of the MinnCan Pipeline (295 miles and 13 counties crossed) and the variety of avenues for public participation and involvement, the Department recommended against forming a citizen advisory council and recommended instead that the Commission authorize the Department to implement enhanced public participation opportunities.

² Minn. Rules, part 4415.0210, subp. 3 requires that an applicant must remit 25 percent of the approved Commission project budget within 14 days of acceptance of the application.

³ Minn. Rules, Part 4415.0055.

E. Variance to 70-Day Requirement

Minn. Rules, Part 4415.0075, subp. 3,C requires that persons wishing to propose alternative routes must do so within 70 days after the Commission accepts the applicant's permit application. In this case, that would be within 70 days of the date of this Order, February 16, 2006. The Department recommended that the Commission vary that rule to allow alternative routes to be filed up to 100 days after acceptance of the Company's application. The Department argued that the three conditions established in Minn. Rules, Part 7829.3200 were met in this case.

IV. The Commission's Analysis and Action

Based on its review, the Commission agrees with the Department that the Company's application is substantially complete in compliance with Minn. Rules, Parts 4415.0115 to 4415.0170. Accordingly, the Commission will accept the Company's application for a pipeline routing permit under the full permitting process.

The Commission is also persuaded to adopt the Department's reasonable recommendations regarding the naming of a public advisor for the project, the Department's proposed budget, enhanced public participation opportunities in lieu of an advisory committee, and the variance of the 70 day requirement in Minn. Rules, Part 4415.0075, subp. 3, C to allow alternative route proposals to be submitted to the Commission up to 100 days after the date of this Order.

With respect to the variance request, the Commission will vary the 70-day rule requirement based on a finding that the three criteria established in Minn. Rules, Part 7829.3200 for granting a variance are met in this case.

- First: in this case, enforcing the rules's 70-day deadline for filing alternate route proposals would impose an excessive burden on landowners desiring to propose alternatives to the Company's proposal. Alternative route proposals must be prepared in detail (see Minn. Rules, Part 4415.0075, subp. 3,C .) Given the length of the proposed pipeline (295 miles) and the Department's obligation to schedule informational meetings in each affected county (13 counties), it appears that the 70 day deadline unduly constrains the time to propose alternative routes.
- Second: granting the variance will not adversely affect the public interest because there appears to be adequate time within the 12-month processing framework to reach a final determination regarding the application.
- Third: the variance will violate no standard established by law.

V. Further Proceedings

In a separate Order, the Commission is referring the matter to the Office of Administrative Hearings for proceedings pursuant to Minn. Rules, Chapter 1405. See the Commission's NOTICE AND ORDER FOR HEARING, issued contemporaneously with this Order.

ORDER

1. The Commission hereby accepts the application of Minnesota Pipe Line Company for a pipeline routing permit under the full permitting process for the proposed 295-mile, 24-inch outside diameter crude petroleum pipeline proposed for the MinnCan Project.
2. The Commission authorizes the Department to name a public advisor for the project.
3. The Commission approves the project budget proposed by the Department.
4. The Commission authorizes the Department to implement enhanced public participation opportunities in lieu of an advisory committee.
5. The Commission hereby varies the 70 day requirement in Minn. Rules, Part 4415.0075 so that alternative route proposals may be submitted to the Commission up to 100 days from its acceptance of the Company's routing permit application, i.e., 100 days from the issuance date of this Order.
6. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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